

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 75/655,561
Mark: TAKSI RIDER (Stylized)
Published: February 22, 2000
Opposer's Ref: TAXI USA TC-99/07343

-----X
MANDARIN MUSIC PTY LTD., :
 :
Opposer, :
 :
- against - : Opposition No. 118,664
 :
JOSEPH ALAN KALMAN GREENBAUM, :
 :
Applicant. :
-----X

--- This is the Deposition upon written questions of DON COLBOURN, taken at the offices of Bereskin & Parr, Scotia Plaza, 40 King Street West, 40th Floor, Toronto, Ontario, Canada, M5H 3Y2, on Thursday, the 15th day of May, 2003.

APPEARANCES:

| | |
|------------------------------|-----------------------|
| Agent for Michael Chiappetta | SHARON GIRAUD |
| | Atchison & Denman |
| | Court Reporting |
| | 155 University Avenue |
| | Suite 302, |
| | Toronto, Ontario |
| | Canada M5H 3B7 |
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| For Mandarin Music | ANDREW MCINTOSH |
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1 --- Upon commencing at 10:15 a.m.

2 DON COLBOURN: Sworn.

3 EXAMINATION BY MS. GIRAUD:

4 Q. Sir, could you state your name and
5 business address?

6 A. My name is Don Colbourn,
7 C-O-L-B-O-U-R-N, and my company is Integra Investigation
8 Services. We're located at 240 Galaxy Boulevard, Toronto.

9 Q. Can you briefly state your educational
10 background?

11 A. Briefly state my educational background
12 would be 27 years experience as a private investigator,
13 which was preceded by a two-year law enforcement program
14 at Humber College and high school prior to that.

15 Q. Please describe the nature of your
16 business.

17 A. We are private investigators
18 specializing in patent and trademark copyright
19 investigations, litigation support.

20 Q. Were you hired to investigate use of
21 the name TAKSI RIDER by Joseph Greenbaum?

22 A. Yes, we were.

23 Q. Please describe in detail what you
24 learned in the course of your investigation concerning use
25 of the name TAKSI RIDER by Joseph Greenbaum?

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1 A. We started our investigation by
2 canvassing local record distributors and retailers, and
3 through our canvassing, we were able to determine that the
4 only store of the major stores in Toronto that carried
5 TAKSI RIDER album by Joseph Greenbaum was HMV Music, and
6 specifically, their location at 333 Yonge Street in
7 Toronto.

8 We contacted them directly and they
9 informed us that they only had two copies of the CD in
10 stock and that the copies were priced at 12.99. They told
11 us that the copies that they had were provided to them on
12 consignment and they could access other copies if need be.

13 Our investigation from there continued to
14 determine the source of these albums, who produced the
15 albums, who actually pressed the CDs, and through that
16 process, we canvassed all of the CD producers that we
17 could locate. We eventually ended up at the smaller
18 CD-producing companies and production companies,
19 eventually speaking to a Mr. Joe Wood at RDR Promotions
20 located at 299 Lesmill Road in Toronto.

21 Mr. Wood informed us that, in fact, he and
22 his company were responsible for the production of TAKSI
23 RIDER CD, and that they had assembled the CD compilation,
24 pressed the CD on behalf of Mr. Greenbaum, and assembled
25 the entire product for distribution.

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1 Mr. Wood continued by telling us that this
2 was Mr. Greenbaum's first CD under the name TAKSI RIDER,
3 it was the only CD that he had produced under TAKSI RIDER,
4 and that Mr. Greenbaum was, in fact, the composer and
5 self-promoter of the CD.

6 Mr. Wood went on to tell us about the
7 assembly of the CD. He described that it was
8 Mr. Greenbaum's attempt to have a very artistic creation
9 in the CD, in the production of the CD, that he had hired
10 a professional graphic artist to construct the cover for
11 the CD, and that he had hired a group of session players
12 to play the music and put together the musical pieces that
13 formed the album TAKSI RIDER.

14 He continued doing the arrangements and all
15 the recordings behind the scene, provided all of this
16 material to Joe Wood, Joe Wood pressed the CD, assembled
17 it all for distribution, and again, did it -- it's only
18 been produced and distributed on a consignment basis to
19 one location.

20 Q. Based on your investigation, did
21 Mr. Greenbaum use the name TAKSI RIDER as the name of a
22 band?

23 A. He used TAKSI RIDER as the name for the
24 session players who played on this particular album.

25 Q. Based on your investigation, did

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1 Mr. Greenbaum use the name TAKSI RIDER as the name of a
2 record company?

3 A. No, he didn't.

4 Q. Based on your investigation, did
5 Mr. Greenbaum use the name TAKSI RIDER for any other
6 company that is in the business of manufacturing or
7 distributing records of musical artists?

8 A. No, he didn't, as far as we know.
9 However, we have found a company named Taksi Rider
10 Management with a Toronto address that is apparently owned
11 by a Mr. Bryant, B-R-Y-A-N-T, Greenbaum.

12 Q. Did your investigation reveal whether
13 Mr. Greenbaum had recorded music under the performing
14 group named TAKSI RIDER? If so, how many
15 recordings? What were the titles of those recordings?

16 A. We could only find one recording that
17 was ever made. That was on the album "Sightings" by TAKSI
18 RIDER and we have never acquired a copy of that CD, so we
19 are unaware of what the specific song titles were.

20 Q. At the time of your investigation,
21 where was the recording "Sightings" offered for sale?

22 A. HMV store at 333 Yonge Street in
23 Toronto was the only store that had "Sightings" from our
24 canvassing of all of the major record shops. They only
25 had two copies on consignment. It was priced at 12.99 per

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1 copy.

2 Q. What is the name of the record company
3 that recorded and pressed "Sightings"?

4 A. The name of the record company is RDR
5 Promotions, 299 Lesmill Road, Toronto.

6 Q. Do you know how many band members
7 comprise the band TAKSI RIDER? If so, how many?

8 A. We don't know how many band members
9 there were. They were session players, and Joe Wood, who
10 was our primary source of information, did not know how
11 many people were involved in it.

12 Q. What did you find concerning the number
13 of copies of "Sightings" that have been produced?

14 A. We were told that there were 550 CDs
15 made and that there were no cassettes made. There was no
16 other production run scheduled as of August 1999, and we
17 don't know how many of those were distributed.

18 Q. What did you find concerning the number
19 of copies of "Sightings" sold?

20 A. We didn't find any information on the
21 number of copies sold.

22 Q. Have you ever heard of Joseph Greenbaum
23 or TAKSI RIDER outside the context of your investigation?

24 A. No, I haven't, never.

25 Q. Those are my questions.

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1 A. Thank you.

2 --- Whereupon the examination was adjourned at 10:20 a.m.

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1 CERTIFICATE OF REPORTER)
2 PROVINCE OF ONTARIO)
3 CANADA)

4 I, BEVERLEY KILLEN, the officer before whom
5 the foregoing proceeding was taken, do hereby certify that
6 the deposition upon written questions of Don Colbourn was
7 taken on the 15th day of May, 2003 at the office of
8 Bereskin & Parr, Scotia Plaza, 40 King Street West, 40th
9 Floor, Toronto, Ontario, Canada, M5H 3Y2, commencing at
10 10:30 a.m. Applicant was not present at the proceeding. I
11 hereby further certify that I administered the oath to the
12 witness and that the proceeding was taken by me in
13 shorthand, using Computer Aided Realtime, to the best of
14 my ability and thereafter reduced to written format under
15 my direction; that I am neither counsel for, related to,
16 nor employed by any of the parties to the action in which
17 the proceeding was taken, and further that I am not
18 related or an employee of any attorney or counsel employed
19 by the parties thereto, nor financially or otherwise
20 interested in the outcome of the action.

21 
22 _____

23 Beverley Killen, CSR
24 Commissioner for Taking
25 Oaths in the Province of
26 Ontario

27
28
29 My Commission expires: 07/21/05

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CORRECTION SHEET

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CORRECTION

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I have read the foregoing pages of my testimony
and believe the same to be true, except for the
corrections noted above.

Dated this 5th of June, 2003,
at TORONTO.

Witness Signature

DON COLBOURN.

Name

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